

REMARKS

The June 18, 2008 Office Action regarding the above-identified application has been carefully considered; and the claim amendments above together with the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action. Several of the apparatus and product claims have been further amended, to address the rejection regarding non-statutory subject matter. For reasons discussed below, it is believed that this case is in condition for allowance. Prompt favorable reconsideration of this amended application is requested.

Applicants appreciate the Examiner's allowance of claims 1-13.

Claims 14-32 were rejected only under 35 U.S.C. § 101 as directed to non-statutory subject matter. It is respectfully submitted that the amendments to independent claims 14, 15, 18 and 26 overcome this rejection.

As noted, several of the rejected claims have been further amended, to address this rejection. In so doing, care has been taken to avoid entry of new matter. Support for the claim amendments should be readily apparent from the original written description. Claims 14 and 15, for example, have been amended to refer to the program storage as "a program storage device." The original specification described various memory devices and mass storage equipment that may be used at various times as devices for storage of the relevant programming. Attention may be directed for example to paragraphs 0014, 0038, 0043 and 0061 of the original specification. Claims 18 and 26 have been amended to refer medium as "a computer readable storage medium." Support for the computer readable medium language should be apparent from the specification, for example, paragraphs 0014 and 0061 of the original specification. Claims 15 and 26 also have been amended to change references to the "server" to instead recite a "computer." Paragraph 0025 of the specification, for example, refers to a general purpose

computer functioning as the server. Several dependent claims have been amended to conform to the revisions to the respective independent claims, and those dependent claim revisions should find support from the same aspects of the original written description as do the revisions to the independent claims. Hence, all of the claim amendments above should avoid any concerns regarding adequate written descriptive support in the original application filing and should not introduce any new subject matter.

On July 15, 2008, the undersigned telephoned the USPTO to conduct an Examiner interview to discuss claims 14-32 and the rejection thereof. In an initial call, there was a brief discussion with the Supervisory Primary Examiner D. Mehrdad. Although he suggested telephoning Examiner Phillipe directly and did not participate in any substantive discussion of the present claims, Examiner D. Mehrdad did provide some helpful insights into the general concerns of the USPTO regarding claim drafting of program product claims for statutory subject matter compliance, such as a preference for “computer readable” medium terminology and the need for appropriate definition and support thereof in the specification. In a follow-up telephone call, an interview was conducted with Examiner G. Phillipe involving discussions of specification and claim amendments to possibly overcome the 101 rejection. In that follow-up conversation, it was agreed that Applicants would amend specification paragraph 0014 to refer to a “physical element” (as it had originally) and to refer to “any other magnetic storage medium,” and that such amendments to the specification would help provide a definition for the “medium” language in the product claims that would more likely avoid concerns that the claim scope might encompass non-statutory intangible media, such as signals. It was also agreed that Applicants would amend independent hardware claims 14 and 15 to refer to “a program storage device,” to avoid possible concerns that the storage might otherwise extend the scope of the hardware claims

to encompass non-statutory embodiments. Applicants wish to express their appreciation to the Examiners for their helpful comments during the July 15, 2008 discussions.

The following comments are provided, in addition to the discussion at the interview, to further explain Applicants' position that claims 14-32 clearly recite subject matter that is statutory as required by 35 U.S.C. § 101.

Applicants disagree with the characterization of claims 14 and 15 as defining a program product. Contrary to the comments in the rejection, claim 14 recites a terminal and claim 15 recites a computer. These claims recite several hardware type claim elements, although in each claim, there is a program element in the storage type claim element (in the storage device hardware element). Hence, both those independent claims recite machines, not programs per se. It is respectfully submitted that a terminal and a computer as recited in claims 14 and 15 are patentable types of "machine" subject matter under 35 U.S.C. § 101. The presence of a program in a program storage device of the machine does not take the claimed subject matter out of the statutory machine category.

The independent product claims 18 and 26 have been amended to positively recite a "computer readable storage medium," and both claims recite that a program is embodied in that storage medium. As apparently recognized in the Office Action, the respective program causes implementation of recited functions and therefore constitutes functional descriptive material. In view of the definition of the computer readable storage medium in the specification, it is believed that these claims clearly recite tangible product subject matter. It is respectfully submitted that embodiment of functional descriptive material in a tangible medium, as recited in claims 18-32, falls squarely within the scope of the "article of manufacture" category of subject matter that is patentable under 35 U.S.C. § 101.

For at least the reasons outlined above, the 101 rejection should be withdrawn. As there was no other rejection of claims 14-32, those claims should now be patentable.

Upon entry of the above claim amendments, claims 1-32 remain active in this application, all of which should be in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the June 18, 2008 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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